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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/664,755	09/19/2000	Mordechai Nisani	1385/4	5136

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EXAMINER

DINH, DUNG C

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 07/13/2004

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application

09/664,755

Applicant(s)

NISANI ET AL.

Examiner

Dung Dinh

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION***Claim Rejections - Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 6,122,665. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-9 of patent 6,122,665 recite essentially all the limitations of claims 1-10. The patent 6,122,665 does not claim a gatekeeper sending information to the management unit. However, it is well known in the art to have a gatekeeper

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in a network (e.g. firewall, gateway, etc.). It would have been obvious for one of ordinary skill in the art to have the gatekeeper transmitting information about the packets to the management unit because it would have enabled the management unit to collect further data or to verified the collected data.

Claim Rejections - 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 11-28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 11 recites setting up the communication according to a first protocol suite and storing a portion of the communication according to a second protocol suite

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different from the first protocol suite. Claim 12 recites that the second protocol suite is an IP protocol suite. Claim 13 recites analyzing packet to determine if the data packet is in accordance with the second protocol suite. Hence, the claims together require the first protocol for setting-up the session to be a non-IP protocol, and the data from the session be transmitted via IP packets.

The specification discloses setup protocols (H.225, H.245) and data transmission (RTP, RTCP) are all based on IP protocol suite (see page 7). The examiner fails to find in the disclosure of a non-IP protocol suite to setup the session and the data from that session is transmitted via IP packets.

Claim Rejections - 103(a)

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moran et al. US patent 5,717,879 and further in view of Chiu et al. US patent 5,101,402.

As per claim 1, Moran teaches a system for managing a communication session (collaborative activities) over a computer network. Moran teaches capturing and storing the collaborative activities data [see abstract]. Moran does not teach the detail of the data capture mechanism.

Chiu teaches an apparatus for monitoring network packets associated with a communication session in real-time comprising: a filter unit for filtering the packets [fig.5 #90, col.8 lines 1-10, 47-60], management unit for receiving selected data packet [fig.5 #92], a gatekeeper [fig.4 #60 and #62].

It would have been obvious for one of ordinary skill in the art to combine the teaching of Chiu with Moran because it would have enable Moran system of efficiently capture data packets (e.g. audio, video, whiteboard data) associated with a collaborative session.

Chiu does not specifically disclose transferring information related to the packets from the gatekeeper to the management unit. It would have been obvious for one of ordinary skill in the art to collect information from the

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gatekeeper because it would have enable the system to collect overall network statistics [see Chiu col.4 lines 34-40].

As per claim 2, Moran teaches data restoring unit for retrieving and displaying the communication session [see fig.1], requesting data packet from the storage means [fig.1 #103] through the management and reconstruct a portion of the communication session [see abstract].

As per claim 3, Moran teaches a communication session display unit for displaying at least a portion of the communication session [fig.1 #106].

As per claim 4, Moran teaches displaying video/audio [col.3 lines 12-30].

As per claim 5 and 6, the reference does not specifically disclose a filtering database. It would have been obvious for one of ordinary skill in the art to have a database containing filtering information because it would have enable the system to be programmed to selectively capture session data. It is apparent that the system as modified would have means for user to input filtering information.

As per claims 7 and 8, Chiu teaches the network comprises WAN and LAN [col.3 lines 57-68].

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As per claim 9, Chiu teaches local management unit for each network segment and a central management unit for controlling local management and storage medium [col.11 line 60 to col.12 line 34].

As per claim 10, Chiu teaches the network connector being a network interface card [fig.16].


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Dinh whose telephone number is (703) 305-9655. The examiner can normally be reached on Monday-Thursday from 7:00 AM - 4:30 PM. The examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached at (703) 305-4792.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dung Dinh
Primary Examiner
July 7, 2004